

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ESTRELLA TENORIO,

Plaintiff,

v.

Case No. 1:15-cv-00349 LF-JHR

SAN MIGUEL COUNTY DETENTION CENTER,
BOARD OF COMMISSIONERS OF
SAN MIGUEL COUNTY, WARDEN PATRICK
SNEDEKER, in his individual and official capacities,
ANTONIO PADILLA, ELFIGO SANDOVAL,
JOEY ROMERO, and MATTHEW BORREGO,
in their individual capacities, HEALTH CARE PARTNERS
FOUNDATION, INC., and RITA TORRES,

Defendants.

**PLAINTIFF'S SUPPLEMENT TO MOTION FOR AN AWARD
OF ATTORNEYS' FEES, COSTS, AND EXPENSES**

COMES NOW Plaintiff Estrella Tenorio, through undersigned counsel, and hereby supplements her Motion for an Award of Attorneys' Fees, Costs, and Expenses [Doc. 363]. In support thereof, Plaintiff states as follows:

1. Plaintiff filed her Motion as the prevailing party for an award of attorneys' fees and expenses in this matter pursuant to the Civil Rights Attorneys' Fees Awards Act of 1976, 42 U.S.C. § 1988, including out-of-pocket expenses, covering legal services rendered by counsel on her behalf from the commencement of this matter through the present time.

2. Given the extensive nature of this case, the Motion was necessarily time-intensive, in order to address the various issues likely to be raised by Defendants, the lengthy time and cost records and reductions in time records, and numerous affidavits filed with the Motion. As such, Plaintiff was unable to capture all of her counsel's time spent working on the Motion prior to filing.

3. This supplement is intended to present the court with the time and costs associated with finalizing the Motion, affidavits, research, and exhibits, including costs and time. An award of fees and costs associated with the hours spent on research, preparation, and drafting of the motion for attorneys' fees is appropriate in this matter. *See O Centro Espirita*, 2018 WL 5314943, at *19 (quoting *Hernandez v. George*, 793 F.2d 264, 269 (10th Cir. 1986)) (finding that "Tenth Circuit caselaw is established" and granting plaintiff's requested fees for preparation of the fees application); *see also Case v. Unified Sch. Dist. No. 233, Johnson Cnty., Kan.*, 157 F.3d 1243, 1255 (10th Cir. 1998).

4. Plaintiff therefore respectfully requests this Court award fees for the supplemental time attached hereto for counsel's time spent on research, preparation, drafting, and finalizing the motion for attorneys' fees, as shown in Exhibit 1, Spreadsheet on Fees.

5. In addition, because Defendants have still not paid the judgment against them, Plaintiff was required to file a Motion to Enforce Judgment [Doc. 353]. The Reply in support of that motion was due December 19, 2018 (the same day as the motion for fees and costs). Notice of Agreed Upon Extension [Doc. 359]; Order Granting Extension [Doc. 361]. This time too was omitted from Plaintiff's fee and cost request, but this post-judgment work should be included in the award to Plaintiff. *See id.*, *18.

6. Attorneys' fees and costs should be awarded to Plaintiff for the attached supplemental time and costs related to those two motions, in the amount of \$13,582.50, for a total award of \$610,460.02. *See Motion for Attorneys' Fees, Costs, and Expenses* [Doc. 363].

7. Finally, based on this supplemented total amount for fees and costs, she respectfully requests gross receipt taxes at a rate of 7.875%, for an additional amount of \$48,073.73. *See id.*, *29-*31 ("[A]lthough the Plaintiffs may be paying taxes on costs, or passing on taxes, the burden

of the tax remains on the Plaintiffs, and they should be compensated for it.”). Absent such compensation given the requirement by law for the attorneys to pay this tax, it would serve as an unwarranted diminishment of the earned attorneys’ fees if left unpaid by Defendants. This tax is routinely to the clients in these cases. As in *O Centro*, should the tax rate raise before the conclusion of litigation on this matter, Plaintiff respectfully requests this Court apply the updated tax rate. *Id.* *30.

WHEREFORE, Plaintiff Estrella Tenorio respectfully requests this Court award a total of \$655,983.04 for fees, costs, and expenses and such other relief as the Court considers appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of December, 2018, I filed the foregoing pleading electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

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